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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

NOTIFICATION DATE	DELIVERY MODE
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10/23/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/790,793	Applicant(s) CORNELIUSSON, HELENA	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Drawings

1. The drawings were received on July 8, 2008. These drawings are not approved. See not only paragraph 3 *infra* but such proposed Figures also raise new objections, e.g. the barriers relative to the absorbent in the Figure 4 cross-section of Figures 1-3 still do not correspond to barriers relative to the absorbent as shown in Figures 1-3, e.g. not far enough inboard at fold and the Sheet numbers are inaccurate/inconsistent with those as originally filed. Therefore see the following paragraph.

2. The drawings are objected to because Figure 4 and the description thereof in paragraph 12 appear to be inconsistent, i.e. the Figures are missing layers (Note discussion *infra*). In Figure 1, the line from 4 should be dashed to denote underlying structure. This also applies to the lines from 10, 11, 10b, 11b, 14-15, 14b-15b, 17 and 20. These last objections also apply to similar denotations in Figures 2 and 3. Additionally it also applies to the line from 21 in Figure 2. See also discussion in paragraph 3 *infra*. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief

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description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

3. The disclosure is objected to because of the following informalities: Claims 1 and 15 now recite running between points “on...edge...along the entire length of the fold”. Applicant relies on paragraphs 20 and 21, and thereby the Figures, for support. However while such portions describe, textually and pictorially, points for attachment which are “on a front edge”, i.e. on the terminal edge, see 10, 11a, 14a, 15a relative to 12, and such portions describe, textually, points for attachment which are “on a rear edge”, as shown the points 10b, 11b, 14b, and 15b are not “on” the terminal edge, i.e. 13 but located “near”, see discussion infra, or on a rear edge portion. Therefore, it is unclear what the terminology “on a...edge” encompasses, i.e. the terminal edge only or the edge portion? Furthermore, if the latter, how does member run along the entire length of the fold, i.e. the fold runs from terminal edge to terminal edge as, e.g., shown. A clear consistent description, both textually and pictorially, of the attachment point location should be set forth.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3a. Claims 1-13 and 15 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 1 and 15, see discussion in paragraph 3 supra, i.e. the location of the attachment points defined by the language “on...edge” is unclear. Also, is Applicant claiming the entire length of the fold is the length of the fold between such points, i.e. from edge to edge. If so where is the antecedent basis for such? In regard to claims 6 and 15, are the rear attachment points in these claims and the attachment points on the rear edge now claimed in claim 1 and claim 15 one and the same?

Claim Language Interpretation

4. Since no terminology has been explicitly defined, such will be given its usual, e.g. dictionary definition. It is however noted that the claims no longer require the barrier be a separate component, i.e. can be monolithically formed with upper and lower cover sheets. It is also noted that the terminology “near” is considered relative absent claiming specific dimensions/distances. Due to the lack of clarity discussed in paragraphs 3-3a supra, “on ...edge” is interpreted as including not only the terminal edge but also the portion “near” such edge, e.g. the edge portion “near” such edge, see discussion of “near” supra. It is also noted that the elastic element of each barrier is still not required to be at or near the fold along its entire length just run between attachment points, see discussion supra, to the article along the entire length of the fold, see discussion supra. Also due to such lack of clarity the rear attachment points in claims 6 and

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15 and those now claimed in claims 1 and 15 are interpreted to either to be one and the same as or not.

Claim Rejections - 35 USC § 102/103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-3, and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al JP '607 or, in the alternative, under 35 U.S.C. 103(a) as obvious over Suzuki et al '607 in view of Robertson '364 and Sageser et al '428.

Claims 1-3 and 11-12: See Figures 2-5 and Figures 7-8 (the last two Figures show alternative embodiments at the same cross -section as that of Figure 4), and the English abstract of '607, i.e. '607 teaches an absorbent article defining a longitudinal direction, a front portion adjacent 4b in the longitudinal direction, a rear portion adjacent 6, and a middle portion along III-III arranged between said portions and having an upper, liquid-permeable cover sheet 1, a lower, liquid-impermeable cover sheet 2, an absorption body 3 arranged between the cover sheets, and first and second side barriers 4 along respective longitudinal sides, each side barrier in turn comprising at least one longitudinal elastic element 5, the first and second side barriers, viewed from above, defining a shape which narrows in the direction towards said front portion so that the distance, in the transverse direction of the article, between the elastic elements, is greater in said rear portion than in said front portion, see Figure 2, and each side barrier is arranged such that, when it is secured in contact with the front portion, see Figure 5, it defines a folded structure of substantially the same shaped cross section as shown in Figure 4 of the instant

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application, see Figure 5 again, or a Z-shape, i.e. in combination with the upper cover sheet, see Figures 2-3 and 5 (Note the shape in the front portion also lies between lines III and IV) and Figures 7-8, with a fold adjacent 10 or 12 directed towards the inside of said article. The side barriers are secured to the cover sheet so that respective first and second longitudinal folds are defined, see Figures 3-5 adjacent 9 or 10 and 11 and Figures 7-8 adjacent 12. The elastic element in the side barriers, viewed from above, are secured to the rear portion outside their respective folds, see Figure 4 between 10 and 11 and similar locations in Figures 7-8. The elastic elements run at least partially in contact with their respective folds, see element 5 in Figure 5, with respect to the fold adjacent 10 and see element 5 in Figure 4 adjacent the fold adjacent 11. Finally the first and second side barriers by themselves constitute a combined side leakage protection and leg elastic for the article.

Each side barrier may be monolithically formed or not monolithically formed from the upper and lower cover sheets, see Figures 3-5 and also see Figures 7 and 8, especially Figure 7, which show other portions of the barrier including the entire barrier being not monolithically formed with the cover sheets.

The at least one elastic element of each side barrier is also positioned at or near the fold directed towards the inside of the article, see discussion of claim 11 *supra*, i.e. the elastic elements run at least partially in contact with their respective folds, see element 5 in Figure 5, with respect to the fold adjacent 10, i.e. at and/or “near”, and the Claim Language Interpretation section *supra*, i.e. the distance defined by the terminology “near” is considered relative, i.e. see element 5 in Figures.

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Claims 1 and 15 now require the at least one longitudinal elastic element of each side barrier also run between an attachment point “on a front edge” of the article and an attachment point “on a rear edge” of the article “along the entire length” of the fold directed towards the inside of the article. It is the Examiner’s first position, see Claim Language Interpretation section supra as well as paragraphs 3-3a, that, as best understood, the ‘607 reference teaches such structure since the attachment points are on front and rear edge portions, i.e. portions “near” the terminal edges, and the elastic runs between such points along the fold extending between such points. In any case, i.e. the Examiner’s second position, even if ‘607 does not teach the elastic member running between front and rear terminal edges, ‘607 at the very least teaches the elastic element of each side barrier running between front and rear attachment points to the article along the length of the fold therebetween. See also ‘364 at the paragraph bridging cols. 10-11 as well as the discussion thereof infra, and ‘428 at col. 10, lines 11-16 as well as the discussion thereof infra. To make the length of the elastic member of ‘607, e.g. at least the length of the crotch, the entire length of the article, i.e. between terminal edges, instead would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by the ‘364 and ‘428. In so doing, the prior art combination necessarily and inevitably teaches the elastic members as now claimed as best understood, see again the Claim Language Interpretation section and paragraphs 3-3a.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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8. Claims 4-7, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki '607 in view of Robertson '364 and Olsson '732, alone, or, in the alternative, Suzuki '607, Robertson '364 and Sageser '428 in view of Olsson '732 .

Claims 4-6 further require a rear barrier formed in said rear portion, which rear barrier is intended for taking up bodily excretions in the direction rearwards along the article, and includes a further elastic element having attachment points which, viewed from above, at least extend outside rear attachment points of the elastic elements in the side barriers such that a barrier is defined along both the longitudinal sides and rear side of the article. While Suzuki '607 does not teach such a rear barrier, it does teach side barriers, i.e. suggests the desire for barriers/leakage prevention. However, see Robertson '364 at the Figures and col. 3, lines 9-33, the paragraph bridging cols. 4-5, col. 12, line 23-col. 13, line 50, e.g. elastic film of laminate is an elastic element, and col. 17, line 45-col. 18, line 8 and Olsson et al '732 at the Figures, especially 1 and 9, col. 11, lines 63-66 and the abstract which teach a rear barrier formed in the rear portion for taking up bodily excretions in the direction rearwards and includes an elastic element having attachment points which, viewed from above, at least extend outside rear attachment points of elastic elements in the side barriers such that a barrier is defined along both the longitudinal sides and rear side of the article. Therefore to employ a rear barrier such as, for example, taught by '364 and '732 on the '607 device would be obvious to one of ordinary in the art in view of the recognition that such a feature in combination with side barriers improves the ability of the article to prevent leakage and the desire suggested by '607.

Claims 7 and 13 require each side barrier include two elastic elements one extending outside the other as viewed in relation to a longitudinal axis of symmetry through the article and

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the elastic elements consisting of elastic threads. While '607 does not show such, it does show a single elastic strip. Furthermore, for example, '364 at col. 11, lines 41-62 and '732 at col. 7, lines 42-45 teach the interchangeability of parallel elastic threads for a strip or film. Therefore to make the elastic strip of each side barrier of '607 two elastic threads instead would be obvious in view of the interchangeability as taught by '364 and '732. In so doing the prior art teaches the structure of claims 7 and 13.

Claim 15: See the discussion of claims 1 and 4-6 supra.

9. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki '607 in view of Sageser et al '428, alone, or, in the alternative, Suzuki '607 in view of Robertson '364 and Sageser '428.

Claims 8-10 require the distance between the elastic elements of the side barriers is at least two times greater at the said rear portion than at the front portion or the distance between the elastic elements of the side barriers is at least three times greater at the rear portion than at the front portion or the distance between parts of the elastic elements the side barriers nearest to the inside of the article or is within the range of 1 - 3 cm at said front portion, respectively. Note paragraphs 33-34 of the instant application. While the claimed distance as seen in Figures 3 and 5 is approximately two times greater and there is a space at the front portion the '607 reference does not explicitly teach the claimed distances. Also note again Suzuki '607 does teach side barriers, i.e. suggests the desire for barriers/leakage prevention. However, see '428 at col. 7, lines 18-42 and col. 7, line 66-col. 8, line 50, i.e. spacing apart of the edges, i.e. elastics, of inwardly folded front portions of side barriers a distance of -2.5 cm to 15 cm combined with outwardly folded or flipped out rear portions of side barriers provides a better fit to the contours

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of the wearers body which reduces leakage (Note that if the front edges as shown in Figure 1 were spaced about next to each other, i.e. 0 cm, the spacing in the rear would clearly be at least 3 times that in the front, as shown the spacing in the rear is about 2-3 times the spacing in the front.). Therefore, to employ the spacing as taught by Sageser '428, i.e. as claimed, on the '607 device, if not already, would be obvious to one of ordinary skill in the art in view of the recognition that such would provide improved fit with the body resulting leakage prevention and the desire suggested by '607.

Response to Arguments

10. Applicant's remarks have been carefully considered but are either deemed moot in that they have not been repeated or are deemed not persuasive for the reasons set forth supra, e.g. because such are narrower than the claim language and/or the teachings of the prior art. It is noted that in claim 6, on line 5, and similar language in claim 15, it appears "extend" should be -- which extend--.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to claims 1 and 15.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Karin M. Reichle/
Primary Examiner, Art Unit 3761

October 17, 2008

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